

5/027/105



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

FILLMORE FIELD OFFICE

35 East 500 North
Fillmore, Utah 84631



In Reply Refer to:
3800
(U-010)
UTU-079854

RECEIVED
JAN 14 2005
DIV. OF OIL, GAS & MINING

January 11, 2005

CERTIFIED MAIL #7004 0750 0000 8259 6753
RETURN RECEIPT REQUESTED

DECISION

KENNETH A. SKEEM	:	PLAN OF OPERATIONS
C/O NON-DOMESTIC	:	REQUIRED---
3220 WEST 4500 SOUTH	:	43 CFR 3809.11
OASIS UT 84624	:	

You must submit a plan of operations and obtain Bureau of Land Management's (BLM's) approval before beginning operations greater than casual use, except as described in § 3809.21.

On January 7, 2005 the Fillmore Field Office (FFO) of the BLM received correspondence from you headed "Notice of Operations for former Drum mine." The first sentence of the second paragraph states "The mine holders of these mining claims plan to reopen a right-of-way, to mine the gold ore which looks like Picture rock, near the pit beyond where Doug Jensen has thrown up a large burm (sic)." According to § 3809.21, "You must submit a complete notice before you commence exploration causing surface disturbance of 5 acres or less . . ." Since you propose to "mine the gold ore", your proposal would fall under § 3809.11 and would require you to submit a plan of operations. The information that is required in a plan of operations is described in § 3809.401. The enclosed sheet "Plan of Operation Requirements" outlines those requirements.

On December 28, 2004, you were sent a letter informing you the Utah Division of Oil, Gas and Mining (UDOGM) and the BLM planned to proceed with reclamation at the Jumbo Mine to address safety concerns at the site. You mention the planned reclamation in your notice and state "And we also plan to explore the two tunnels that you plan to close in the underground workings". The planned reclamation will not include closure of any tunnels at this time. The reclamation planned addresses an overhang at the site. The plan is to push material at the pit rim down to the bottom of the pit and then have the material pushed against

the overhang. The UDOGM and BLM plan to continue with reclamation at the site even with receipt of your notice. Any action you would like to take at the overhang under a plan of operations should take into account the planned reclamation.

If you do not agree with this decision that operations you have proposed require submitting a plan of operations, you have the right to request review by the Utah State Director (SD), of the Bureau of Land Management, in accordance with 43 CFR 3809.800. If you exercise this right, your request, accompanied by a brief written statement explaining why we should change our decision and any documents that support your written statement must be filed in writing within 30 days after you receive this decision. The envelope should be marked "State Director Review" and sent to the following address:

BUREAU OF LAND MANAGEMENT
UTAH STATE OFFICE
PO BOX 45155
SLC UT 84145-0155

You should include a telephone or fax number by which the SD can contact you. If the SD does not make a decision within 21 days on whether to accept your request for review, you should consider your request declined, and you may appeal this decision to the Office of Hearings and Appeals (OHA). You may also appeal to OHA if the SD's decision is adverse to you. You must file a notice of appeal to this office within 30 calendar days of the date you receive the SD's adverse decision or decision not to review.

You may also bypass State Director review, and appeal directly to OHA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the Fillmore Field Office within 30 days of receipt of this decision. You have the burden of showing that the decision appealed from is in error.

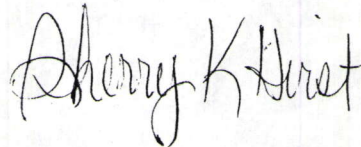
If you wish to file a petition to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals (Board), the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay **must** also be submitted to each party named in this decision and to the Board, and to the appropriate Office of the Solicitor (see 43 CFR 4.412) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

As mandated in 43 CFR 3809.808, this decision will remain in full force and effect during review and appeal unless a written request for a stay is granted.



Enclosures:

Plan of Operation Requirements
Information on Taking Appeals to the Board of Land Appeals, 1842-1

cc: Doug Jensen, UDOGM